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99TH CONGRESS
1ST SESSION

S. 490

To limit the employment by Government contractors of certain former
Government personnel.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 21 (legislative day, FEBRUARY 18), 1985

Mr. PEYOR (for himself, Mr. GRASSLEY, Mr. SIMON, Mr. GORE, and Mr.
HARKIN) introduced the following bill; which was read twice and referred to
the Committee on Governmental Affairs

A BILL

To limit the employment by Government contractors of certain
former Government personnel.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a)(1) the head of an agency making a contract for pro-
4 curement of goods and services for the United States shall
5 require that the contract include provisions under which the
6 contractor agrees not to employ during the period described
7 in paragraph (2), certain individuals who while serving as an
8 officer or employee of the Government or a member of the
9 uniformed services performed a Government procurement
10 function with respect to a contract with that contractor.

1 (2) The period referred to in paragraph (1) is five years
2 from the termination of the contract. If contract term exceeds
3 the individual's separation date, the period referred to in
4 paragraph (1) shall be the five year period beginning at the
5 date of the individual's separation from Government service.

6 (b) The head of the agency may waive the application of
7 any contract provision required by subsection (a) with respect
8 to any individual if the employment of that individual by a
9 contractor is considered by the head of the agency to be es-
10 sential for national security purposes. Any such waiver shall
11 be published in the Federal Register or shall be approved in
12 advance by the Director of the Office of Government Ethics.

13 (c) A contractor who violates a contract provision re-
14 quired by subsection (a) shall forfeit to the United States, as
15 liquidated damages under the contract, an amount equal to
16 the rate of compensation, stated on an annual basis, of the
17 individual employed by the contractor in violation of such
18 contract provision, multiplied by the number of days the indi-
19 vidual is employed by the contractor.

20 (d)(1) Each contractor subject to contract terms de-
21 scribed in subsection (a) shall issue an annual report listing
22 the name of each individual with an adequate identifier who
23 is a former Government officer or employee who was hired
24 by the contractor within the previous five years. Such listing
25 shall show the agency by which such officer or employee was

1 last employed, his job title, and summary of job responsibil-
2 ities. A copy of each such report shall be sent to each agency
3 named in the report.

4 (2) The inspector general of each agency which receives
5 a report under paragraph (1) shall review the report for the
6 purpose of identifying any violation of subsection (a) indicated
7 in the report and to assess for accuracy and completeness. In
8 the case of an agency that does not have an Inspector Gener-
9 al, the Comptroller General of the United States shall review
10 the reports.

11 (3) The Director of the Office of Government Ethics
12 shall have access to the reports and shall conduct an annual
13 random survey of the reports to check for violations of sub-
14 section (a). The Director shall submit an annual report to
15 Congress on the operation of this section, including the find-
16 ings of the Director under such reports.

17 (e) For the purposes of this section—

18 (1) the term "employ" includes any payment, re-
19 imbursement, or other compensation (whether provided
20 directly or indirectly or through a third party) in return
21 for services;

22 (2) the term "certain individual" referred to in
23 paragraph (1) applies with respect to a contract to any
24 person having substantial responsibility for the recom-
25 mending, approving, or finalizing of decisions with re-

1 spect to the negotiating, awarding, administering, ap-
2 proving contract changes, cost analysis, quality assur-
3 ance, operation and development testing, approval of
4 payment, contractor selection, or auditing under the
5 contract;

6 (3) the term "contractor" is any person, partner-
7 ship, corporation, or agency thereof, other than the
8 Federal Government (including the independent agen-
9 cies of the Federal Government) or the District of Co-
10 lumbia, who offers, negotiates, agrees, or otherwise
11 contracts to supply the Federal Government (including
12 the independent agencies of the Federal Government)
13 or the District of Columbia, with goods, services, or
14 supplies, and includes any parent, subsidiary, or affili-
15 ate of such person, partnership, corporation, or agency
16 thereof; and

17 (4) the term "contract" applies to any agreement
18 in an amount greater than \$25,000 by which the Fed-
19 eral Government (including the independent agencies of
20 the Federal Government) or the District of Columbia
21 purchases, leases, or otherwise acquires supplies, serv-
22 ices, or other material, including an order for the pro-
23 curement of services or supplies, an award, a notice of
24 award, a contract of fixed price, an incentive contract,
25 and a cost or cost-plus-a-fixed fee contract, a contract

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1 providing for the issuance of job orders, task orders, or
2 task letters under the contract, a letter contract, a
3 letter purchase order, or any agreement that is supple-
4 mental to any of the foregoing.

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